
Michigan Commission on Law Enforcement Standards
Commission Meeting Minutes
February 26, 2002
Ashman Court Marriott Conference Hotel, Midland

MCOLES MEMBERS PRESENT:

Sheriff Gary Rosema, representing the Michigan Sheriffs' Association
Officer Richard Weaver, representing the Detroit Police Officers Association
Chief Jeffrey Werner, representing the Michigan Association of Chiefs of Police
Director Robert Denslow, representing the Michigan Association of Chiefs of Police
Chief James St. Louis, representing the Michigan Association of Chiefs of Police
Mr. John Buczek, representing the Fraternal Order of Police
Sheriff Tom Edmonds, representing the Michigan Sheriffs' Association
Mr. Raymond Beach, Executive Director
Mr. Mark Meadows, Commission Counsel

COMMISSION MEMBERS EXCUSED:

Major Marie Waalkes, representing the Michigan State Police
Sheriff Henry Zavislak, representing the Michigan Sheriffs' Association
Mr. David Morse, representing the Prosecuting Attorneys Association of Michigan
Mr. William Dennis, representing the Attorney General's Office
Mr. Douglas Mullkoff, representing the Criminal Defense Attorneys of Michigan
Mr. Jim DeVries, representing the Police Officers Association of Michigan
Trooper Timothy Permoda, representing the Michigan State Police Troopers Association
Chief Jerry Oliver, representing the Detroit Police Department

COMMISSION STAFF PRESENT:

Mr. William Nash
Ms. Theresa Hart

Ms. Cheryl Hartwell
Mr. Gary Ruffini

GUESTS:

Mr. Martin Trombley, Dean, Mid Michigan Community College
Chief Don Pussehl, Saginaw Police Department
Lt. Thompson, Midland Police Department

CALL TO ORDER:

The working session of the Commission meeting was called to order by Chairman Gary Rosema at 9:25 a.m. at the Ashman Court Marriott Hotel in Midland. The following topics were discussed with the members in attendance. Since there was not a quorum present, no action was taken on any of the items on the agenda.

Physical Agility Testing Update – Mr. Bill Nash provided the Commission with an update on the MCOLES physical fitness test. The majority of Commission Members felt there should still be an entry standard with an enhanced exit standard at the completion of academy training. Mr. Nash stated that there would be a meeting of the subject matter experts in March where the policy would be fine-tuned for presentation to the Commission at the April 11, 2002, meeting.

2001 Technical Grant Adjustments – Mr. Gary Ruffini explained that in December the first actions of the Commission was awarding over 3 million dollars to competitive grant applicants. A list of technical adjustments was provided to the Commission with recommendations on how the money should be distributed. A total of \$67,064 was available after the adjustments to the December awards had been made. Staff recommends that the following adjustments be made to distribute return awards: Michigan Judicial Institute \$150 to adjust travel rates to FY02 rates, Michigan Judicial Institute \$35,600 printing negotiation error, Mid-Michigan Community College \$16,169 funding consistent with committee recommendations, Eastern Michigan University \$15,145 funding the Law Enforcement Executive Leadership grant at a reduced level due to available funds.

2002 Competitive Grant Application Process Revision – Mr. Gary Ruffini explained that in response to the Commissions' directive the staff has developed and is recommending a revised "Competitive Grant Application Process" which would streamline and strengthen the Commission's role in the award process. The new process would still allow the Commission to fulfill its statutory responsibility of conducting the final review and awarding the grants. A proposed modification summary was disseminated to the Commission members outlining the recommended changes. The proposed plan would place an emphasis on core area of training. Grant workshops would be conducted across the state during the month of May. With the closing of the grant applications deadline, grants would be reviewed by staff with those not meeting the requirements denied. The successful applicants would be divided according to subject matter areas of training. The grants would be reviewed by a committee to be forwarded to the MCOLES Grant Coordinator to be matched with available funds. The grants and recommendations would then be forwarded to the full Commission for review at least 30 days before the scheduled meeting. The new process would also begin to meet several of the directives which were presented in the Governor's Executive Order Number 2001-5. Specifically, the issuing of grants that would advance professionalism by increasing the number of law enforcement organizations that offer formal in-service training, therefore increasing the number of

law enforcement officers who receive the training. It is also a step toward instituting law enforcement in-service training standards applicable to all law enforcement officers in Michigan.

LED Special Use Request/Grant Adjustment Approval Revisions – Ms. Cheryl Hartwell explained that the LED Special Use Requests are sent in by law enforcement agencies that are asking for special consideration for using their distribution monies on officers for out of state training, an out of state vendor coming to Michigan, or equipment purchase. Commission approval is required in any of the three areas. The Grant Adjustment Requests involve the competitive grant process. Due to the fact that the grant proposals need to be submitted in advance, grantees may find as they transition through the training year that some of the costs projected need to be adjusted. The prior Commission met monthly to review these requests. To streamline this process staff is proposing that after the review for accuracy and compliance formal recommendations would be provided to the Executive Director for his approval or denial, with a report to the Commission. In the event of an appeal, the requestor could contact the Executive Director in an attempt to resolve the issue. If the issue could not be resolved, the individual would have the opportunity to appeal to the full Commission.

CALL TO ORDER:

The regular meeting of the Commission was called to order by Chairman Gary Rosema at 11:14 a.m.. Since there was not a quorum of the Commission present, all agenda items for the regular meeting were discussed for information purposes only and will be moved forward to the April 11, 2002, meeting for action.

INTRODUCTIONS:

Chairman Gary Rosema welcomed everyone to the Commission meeting, and asked the Commission and everyone in attendance to introduce themselves. Chairman Rosema thanked Chief Jim St. Louis, Midland Police Department, for hosting the meeting.

PUBLIC COMMENT:

There was no public comment.

AGENDA ITEMS:

Sheriff Rosema announced that the agenda items were:

- Decertification Investigations – Final Action and Order – this issue would not be discussed but would be moved forward to the April Commission Meeting
- Revised MCOLES Policy and Procedure Manual
- Certification Examination Results Report for Field Distribution
- Ferris State University – Police Corps IV Proposal
- MCOLES Strategic Plan Update

ADDITIONS TO THE AGENDA:

Military Call-ups - Sheriff Rosema asked if there were any additions to the agenda. Sheriff Edmonds asked if the issue of military call-ups had been researched by Mr. Mark Meadows and if that could be added for discussion. Mr. Meadows stated that he had not concluded his research on this topic and would discuss it at the next Commission meeting.

ACCEPTANCE OF THE DECEMBER 20, 2001, MEETING MINUTES:

Sheriff Rosema stated that the approval of the minutes would be forwarded to the April 11, 2002, Commission meeting.

CHAIRMAN'S REPORT:

Chairman Gary Rosema reported that the Executive Committee had met in January in Grand Rapids and had discussed the implementation of the strategic plan and the development of an ad hoc committee to specifically address the issues of funding for some of the initiatives of the Commission. In addition, the Commission needs to continue to be involved with their legislators in order to address some of the Commission's issues.

EXECUTIVE DIRECTOR'S REPORT:

Mr. Raymond Beach updated the Commission on the following issues:

Budget FY2003 - On February 7, 2002, Governor Engler presented his recommended budget to the legislature. While the overall department's budget was recommended to be reduced by approximately \$2 million, the MCOLES budget appeared to remain at a maintenance level, plus economic factors, which will preserve all current staffing levels. In its present form, this will allow staff to continue their present proactive strategic direction. As this is only the first hurdle in the FY03 budget process, Mr. Beach will continue to keep the Commission informed of the MCOLES status as the State Police Budget Bill progresses through the legislative process.

New Members of the MCOLES Commission - On Thursday, February 21, 2002, Governor John Engler appointed Lt. Col. Stephen Madden as director of the Michigan State Police. This appointment is effective March 4, 2002. Lt. Col. Madden is currently a Deputy Director of the department serving as the commander of the Uniform Services Bureau.

Chief Jerry Oliver, Detroit Police Department, was recently appointed as Chief by Mayor Kilpatrick. Mr. Beach and Sheriff Rosema will be meeting with Chief Oliver on March 14th.

Terrorism Training - MCOLES has taken the initiative to bring in the FBI, National Guard, Fire Fighters Training Council, and the Emergency Management Division to look at the needs of law enforcement in the area of terrorism. In conjunction with those agencies, and the Michigan Association of Hospitals a 1-day Terrorism Awareness seminar for first responders was planned. This training will be presented on closed circuit television at sites throughout Michigan on April 23rd. A formal announcement is planned for the beginning of March. There will be no cost to those who receive the training. The announcement will be made through an MCOLES mailing and will be posted on the MCOLES web site.

Flying While Armed - MCOLES, in a cooperative venture with MSA and the MACP, will be hosting a Flying While Armed training session at the Michigan State Police Academy April 29, 2002. This is the training that is required by the FAA (or the new Transportation Safety Administration) to allow police officers to carry a gun while flying on a commercial airliner. The training will be 3-4 hours in length and a small fee may be charged to cover administrative costs. The training will be conducted by members of the Wayne County Airport Police.

MCOLES/MJTC Annual Reports - The MCOLES/MJTC Annual Reports for fiscal year 2000 were distributed to the Commission along with a CD which contained these reports in Portable Document File format.

This will be the last annual report presented on behalf of the former Commission. Staff anticipates submission of the 2001 Annual Report this spring. It will encompass FY2001 plus the final 3 months of 2001. This will permit timely reporting on the consolidation of the Commission on Law Enforcement Standards with the Michigan Justice Training Commission under Executive Order 2001-5. Thereafter, the MCOLES succeeding annual reports will be submitted on a calendar year basis.

Law Enforcement Distribution (LED) - The 2002 LED cycle began with nine (9) registration workshops held across the state during the first two weeks of January. There were 371 workshop attendees representing a total of 296 agencies. These figures indicate a 14% increase in agency participation over last year.

At each workshop, staff provided instruction on the registration process and gave an overview of the LED guidelines. Registration packets were distributed to workshop attendees and mailed to all agencies that did not participate. This annual census, in conjunction with on-going personnel transaction reporting, is conducted in compliance with the employment history tracking requirement of P.A. 203 of 1965, as amended.

State of Michigan Early Retirement - Governor Engler recently announced an early-out retirement plan for State employees. The MCOLES Division has five (5) employees that qualify to retire under this plan. It is unknown at this time if all five will take advantage of this plan. The Governor is suggesting that only one in four employees can be replaced under this plan.

CCW - A survey of Michigan law enforcement agencies will be conducted to identify experiences and training needs related to the new CCW legislation, among other issues. The CCW survey will attempt to identify particular issues requiring additional training and methods for delivering the training most effectively. This training will be paid for from the law enforcement training fund provided in the legislation, which derives its funding from a \$5.00 assessment on each CCW application.

Decertification Issues - Recently, it has come to the attention of MCOLES that cases involving police officers charged with felonies are being pled down to misdemeanor arrests. The MCOLES is unable to revoke for such issues as child pornography, etc., when they plead to lesser charges. The Commission needs to work with prosecutors and agencies or work with the legislature to get the law changed to ensure these individuals cannot continue in a certified position.

Attorney General Opinions - Opinion No. 7097 – Issued January 11, 2002, addresses private investigators carrying concealed pistols in gun-free zones – A private investigator licensed to carry a concealed pistol is not, by reason of section 234d of the Michigan Penal Code, exempt from the gun-free zone restrictions imposed by Section 5o of the Concealed Pistol Licensing Act.

Opinion No. 7098 – Issued January 11, 2002, addresses the application of Concealed Pistol Licensing Act's gun-free zone restrictions to police officers and reserve police officers – In order to come within the scope of this exemption, a person must be a "peace officer" and must be "regularly employed and paid" by a qualifying unit of government.

Sheriff Edmonds commended the staff for their patience and hard work in assisting the Kalamazoo County Sheriff's Office during the LED process.

NEW BUSINESS:

Revised MCOLES Policy and Procedure Manual - Mr. William Nash explained that over the years the Commission has promulgated policies and procedures to serve as an operational guide for the staff, training directors, training delivery systems and agencies. In 2001, staff began the process to address changes to the current policy and procedure manual. A copy of the revised manual was supplied to the Commission. At the October 2001 training directors' conference staff reviewed the revisions with the directors with suggested changes provided to the MCOLES staff in the fall. Staff would like to use the MCOLES website to house the document for anyone interested in the policies and procedures. Staff will ask the Commission for approval of the revisions at the April 11, 2002, meeting.

Sheriff Tom Edmonds stated that in Chapter Six, Unit II, definitions of military law enforcement agent, MCOLES has used exclusively enlisted AFSE's and MOS's, staff might want to check what the Commission equivalents are so that when it is adopted staff won't inadvertently preclude an officer in the military police corps or the security forces core from being eligible for the benefit of this section.

Chief Jeff Werner felt the manual was a terrific reference and staff had done a terrific job putting it together.

Certification Examination Results Report for Field Distribution - Mr. Bill Nash explained that the Commission administers the licensing exam to basic training graduates. It is a common practice in other states to publish examination results for their academies. Staff will request at the April 11, 2002, meeting that the Commission approve the publication of academy certification pass rates for six-month report periods set to coincide with most academy/semester endings. Notice will be included that the pass rates should not be the sole measure to rate academy performance, nor should program adjustments be made solely on the basis of these figures.

Ferris State University – Police Corps IV Proposal - Mr. Bill Nash explained that Ferris State University (FSU) is the lead agency in Michigan for the Federal Police Corps grant. This grant provides financial support to encourage individuals to pursue a

four-year degree and be trained as law enforcement officers. The Police Corps program provides up to \$30,000 for education related expenses for individuals in pursuit of that degree. Qualifying individuals also receive \$250 per week for living expenses during the basic training academy phase of the program. Law enforcement agencies that employ an individual qualifying for this program will receive a \$10,000 per year supplement for the individual's wages for four years.

Dr. Robert Parsons recently submitted a formal request to staff to operate a 4th Michigan Police Corps Academy at FSU. The 20-week program will commence on June 2, 2002, and end on October 18, 2002. The maximum number of recruits will be 20.

MCOLES Strategic Plan Update -Mr. Bill Nash explained that at the December 10, 2001, meeting the Commission approved the conceptual foundation of the MCOLES Strategic long-term plan. At that time, the Commission asked that staff move forward with the next phase of the project which was the program development/research phase and develop options for Commission consideration. Mr. Nash provided the Commission with a scheduled timeline and reviewed the information. At the April 11th meeting, an interim progress report will be provided to the Commission.

MISCELLANEOUS:

Chairman Rosema reported that during the Executive Committee meeting in January the issue of other organizations was discussed. As a result of that, more meetings will be held regarding this issue and some members of the Commission may be called upon to participate in those discussions.

COMMISSION ATTORNEY'S REPORT:

Mr. Mark Meadows explained the litigation involving a student at the Detroit Academy that failed the exam because she was allegedly copying from someone else's exam and was observed doing so. One of the issues that came up was should MCOLES be the defendant in the litigation. The MCOLES insisted to the Circuit Court that it wasn't a Commission decision it was a decision that related to the academy. An appeal should be made to the academy director. The defense on that issue was successful.

A case is pending right now on one of the vision requirements. There is an individual who has not been able to gain access to an academy because he can't meet the vision requirements and he has sued the Commission. This is pending in Ingham County Circuit Court. We just received a discovery request from plaintiff's counsel that asks what the requirements are. I anticipate the Commission will be successful in the defense of this litigation.

On the issue of other organizations, at least one of the Commission members was under the impression that the process in the Attorney General's Office on the opinion request was that once the matter was released from the Opinion Review Board that basically it is placed on the Attorney General's desk and she makes the determination of whether it will be issued. The current process is, once it is released from the Opinion Review Board, it goes to both of the deputy directors for review and they make recommendations to the Attorney General. There has not been a recommendation to the Attorney General to date from one of the deputy directors. The concern appears to be the impact on existing certified officers.

One District Court Judge has determined that essentially the add-ons in the District Court fining process, which includes \$5 for MCOLES, and he has refused to assess those amounts. This appears to be a position that is supported by the district judges association. They have determined that it is a tax, not a fee, and therefore unconstitutional under the Michigan Constitution in the manner in which it was imposed. One of the criticisms is that part of the increases and shifting in some of these fees took place in the Executive Order from the Governor last year and that is an unconstitutional way to also impose a tax or a fee. The Attorney General's office has been requested to appeal the order. This not only includes MCOLES but also the judge's retirement, secondary road, corrections, every one of the add-ons.

Regarding AG Opinion 7098 this affects MCOLES as well. The issue of regularly employed is mentioned in this opinion. In order to be certified as a law enforcement officer an individual needs to be regularly employed. Under 7098 the gun boards will need to determine that the person functions as a law enforcement officer for a substantial part of their daily activity and not irregularly or occasionally.

Mr. Meadows will look at the military call-up Federal statute and report back to the Commission.

NEXT MEETING DATE:

The next MCOLES meeting will be held on April 11, 2002, at Oakland Community College at 10 a.m. and will be hosted by Chief Jeff Werner, Bloomfield Township Police Department. Mr. Beach added that the meeting will also include a tour of the new CREST facility being developed there.

ADJOURNMENT:

The meeting adjourned at 12:17 p.m..

APPROVED BY _____ ON _____

WITNESSED BY _____ ON _____

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